IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

WA. No. 250 of 2007()

AGAINST THE JUDGEMENT IN OP.18798/2002 Dated 27/09/2006
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APPELLANT: PETITIONER

KUSUMAM. N. KUTTY, PROPRIETRIX,
M/S.CITY GAS AGENCIES, CHITTOOR ROAD,
ERNAKULAM.

BY ADV. SRI.V.P.SUKUMAR

RESPONDENTS: RESPONDENTS
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1. THE INTELLIGENCE OFFICER (IB)
OFFICE OF THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM.

2. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES, ERNAKULAM.

3. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

4. THE DEPUTY TAHSILDAR (R.R.)
KANAYANNUR TALUK, ERNAKULAM.

BY GOVT PLEADER FOR TAXES SRI MATHEW G. VADAKKEL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN, Ag. C.J. & M.N. KRISHNAN, J.

Writ Appeal No 250 of 2007

Dated: 12th February 2007.

JUDGMENT

Radhakrishnan, Ag. C.J.

We find no infirmity in the judgment of the learned single judge to be interfered with in this appeal. Both the fact finding authorities have concurrently found that there was intention on the part of the assessee to avoid payment of tax and consequently penalty was imposed. Though penalty of two times of the amount of tax sought to be evaded was levied subsequently it was reduced to equal the amount of tax. In such circumstances, this court under Article 226 of the Constitution of India is not justified in interfering with the finding rendered by the Commissioner of Commercial Taxes. The appeal lacks merits and the same is dismissed. However, considering the facts and circumstances of the case, appellant is given three months time from today to pay the balance amount of penalty.

Sd/-
K.S. RADHAKRISHNAN
Ag. Chief Justice

Sd/-
M.N. KRISHNAN
Judge

12/02/2007
en/

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